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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,381	04/25/2001	David Robert Dudek	TS9243 (US)	8871

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Houston, TX 77252-2463

EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/843,381

Applicant(s)

DUDEK ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restrictions

Newly submitted claims 19-25 are directed to a species that is independent or distinct from the species of batch processing originally claimed for the following reasons: Applicant amendment makes the batch species originally presented by virtue of its being presented with claims originally in the case

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 19-25 withdrawn from consideration as being directed to a non-elected invention, but would be reconsidered if a generic claims is allowed. See 37 CFR 1.142(b) and MPEP § 821.03.

Double Patenting

Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 66598631 and 6615880 in view of Seo. Because Seo discloses a customization controller 5, the system in the foregoing listed patents could include such a controller for effecting customization of product.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

Art Unit: 3627

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,3 6,8, 14, 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Seo.

Seo disclose (a) preparing said consumer products (raw material) according to selections of product characteristics made by a consumer, (b) optionally reconstituting with one or more other components (adding either hot or cold water) , and(c) dispensing from a vending system at a point-of-sale of said consumer products(machine 1).

Multiple customization of product is read as being done successively and hence multiple processing. The reusable container is read as the cups. Re claims 14 and 16, since the machine uses a mixing unit 13 it is read as a batch process.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seo in view of Partyka et al.

As disclosed above, Seo answers the limitations of claims 1 and 6. However, there is no teaching of remote controlling of ordering or of simultaneous ordering.

However, Partyka et al. do disclose using a remote controller which directs communication with plural vending machines, and hence is able to effect simultaneous

processing of plural orders. It would be obvious to modify Seo to include a remote controller which is connected to plural vending units so that simultaneous operations can be effected. The motivation for this would be to increase throughput.

Partyka et al. disclose on col. 7 lines 9-68 the interconnection of plural machines through a location unit 104. All claims 8-10 recite is "adapted to be operated". To the extent that this language is so broad, the operation by unit 107 is deemed to be met.

Claims 6, 7, 8, 11, 12, 13-18, are rejected under 35 U.S.C. 103(a) as being unpatentable over Seo in view of Whigham. Seo is silent as to plural interfaces being used to selectively operate one or more plural systems. Whigham does disclose such plural interfaces local link 112/110 which can operate in response to signals from any cell phone (plural interfaces). It would be obvious to modify the system in Seo to include the plural interface feature of Whigham the motivation being to allow the user access to one of many vending machines.

Re claims 14-18, since the machine uses a mixing unit 13 it is read as a batch process.

Final Arguments

Applicant's arguments filed 2/12/04 have been fully considered but they are not persuasive. Applicant argues that in Seo the selection is not the component, but the product itself. First Webster's Ninth New Collegiate Dictionary defined at definition (1) a component as an INGREDIENT. See attached Ehx.A. As such the device offers the user a selection i.e. coffee component 1; cream component 2; hot water component 3 in one case. In another case coffee component 1; sugar component 2. As such, the device of Seo answers the limitations of the claims to which section 102 e was applied.

Partyka et al. disclose on col. 7, lines 9-68 the interconnection of plural machines through a location unit 104. All claim 8-10 recite is "adapted to be operated". To the extent that this language is so broad, the operation by unit 107 is deemed to be met.

The final rejection of claims 11-18 was necessitated by amendment and the 112 second paragraph rejection corrections.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

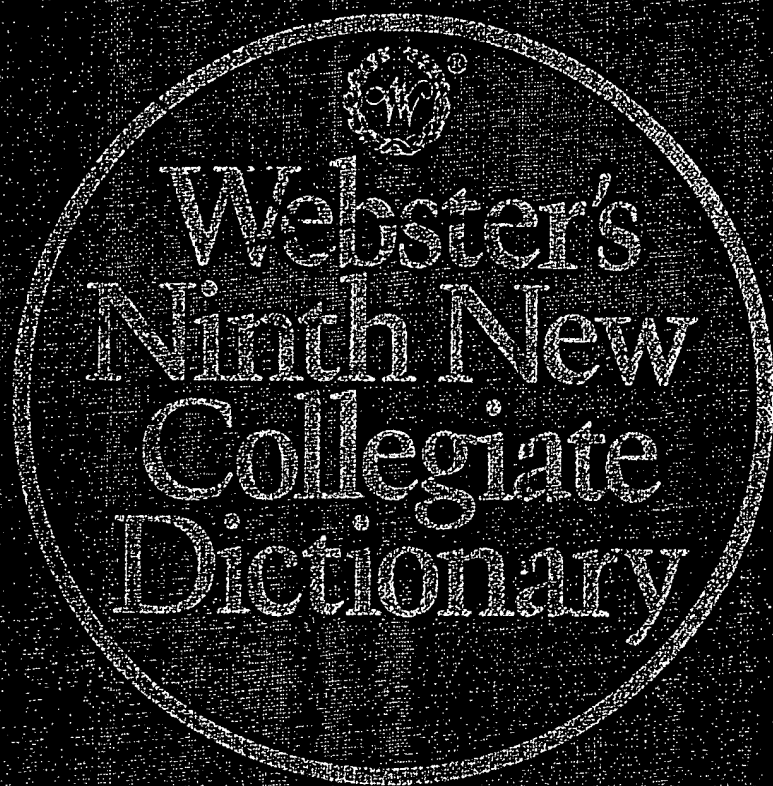
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to PRIMARY EXAMINER Joseph A. Fischetti at telephone number (703) 305-0731.

A handwritten signature in black ink, appearing to read "J.A. Fischetti". The signature is written in a cursive, stylized font.



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English

Abbreviations

E+L A

270 complimentary close • comprising

— *com-pli-men-ta-ri-ly* \ˈmen-trə-lē, -ˈmen-ter-ə-lē, -ˈment-ə-rə-lē\ *adv*

complimentary close *n* (1919): the words (as *sincerely yours*) that conventionally come immediately before the signature of a letter and express the sender's regard for the receiver — called also *complimentary closing*

com-pline \ˈkām-plān, -ˈplīn\ *n*, often *cap* [ME *compline*, *comple*, fr. OF *comple*, modif. of LL *completa*, fr. L, fem. of *completus* complete] (13c): the seventh and last of the canonical hours

com-plot \ˈkām-plāt\ *n* [MF *complot* crowd, plot] *archaic* (1577): PLOT, CONSPIRACY

com-plot \ˈkām-plāt, kām-\ *vb*, *archaic* (1579): PLOT

com-ply \ˈkām-plī\ *vi* *com-plied*; *com-ply-ing* [It *complire*, fr. Sp *cumplir* to complete, modif. of LL *completa*, fr. L, fem. of *completus* complete] (1602) 1 *obs*: to be ceremoniously courteous 2: to conform or adapt one's actions to another's wishes, to a rule, or to necessity

com-po \ˈkām-pō\ *n*, *pl* *compos* [short for *composition*] (1823): any of various composition materials

com-po-nent \ˈkām-pō-nənt, kām-, kām-\ *n* [L *component*, *componens*, prp. of *componere* to put together — more at COMPOUND] (1645) 1: a constituent part: INGREDIENT 2 *a*: any one of the vector terms added to form a vector sum or resultant *b*: a coordinate of a vector; also: either member of an ordered pair of numbers *syn* see ELEMENT

com-po-nen-tial \ˈkām-pō-nən-ʃəl\ *adj*

com-pon-ent \ˈkām-pō-nənt, -pō(ə)r\ *vb* [MF *comporter* to bear, conduct, fr. L *comportare* to bring together, fr. *com-* + *portare* to carry — more at PORT] (1589): to be fitting: ACCORD (acts that ~ with ideals) ~ *vi*: BEHAVE *esp*: to behave in a manner conformable to what is right, proper, or expected (~ed himself well in the emergency) *syn* see BEHAVE

com-port \ˈkām-pō(ə)r\ *vb* (1771): COMPOTE 2

com-port-ment \ˈkām-pōrt-mənt, -pōrt-\ *n* (1599): BEARING, DEMEANOR

com-posed \ˈkām-pōz\ *vb* *com-posed*; *com-posing* [MF *composere*, fr. L *componere* (perf. indic. *composui*) — more at COMPOUND] (15c) 1 *a*: to form by putting together: FASHION (a committee composed of three representatives—*Current Biog.*) *b*: to form the substance of: CONSTITUTE (composed of many ingredients) *c*: to produce (as columns or pages of type) by composition 2 *a*: to create by mental or artistic labor: PRODUCE (~ a sonnet sequence) *b* (1): to formulate and write (a piece of music) (2): to compose music for 3: to deal with or act on so as to reduce to a minimum (~ their differences) 4: to arrange in proper or orderly form (~ her clothing) 5: to free from agitation: CALM, SETTLE (~ a patient) ~ *vi*: to practice composition

com-posed \ˈpōzd\ *adj* (1607): free from agitation: CALM; *esp*: SELF-POSSESSED *syn* see COOL — *com-posed-ly* \ˈpō-zəd-lē\ *adv* — *com-posed-ness* \ˈpō-zəd-nəs\ *n*

com-poser \ˈkām-pō-zər\ *n* (1597): one that composes; *esp*: a person who writes music

composing room *n* (1737): the department in a printing office where typesetting and related operations are performed

composing stick *n* (1679): a tray with an adjustable slide that a compositor holds in one hand and sets type into with the other

com-pos-ite \ˈkām-pōz-ət, kām-, ɛsp *Brit* \ˈkām-pō-zī\ *adj* [L *compositus*, pp. of *componere*] (15c) 1: made up of distinct parts: as *a* cap: relating to or being a modification of the Corinthian order combining angular Ionic volutes with the acanthus-circled bell of the Corinthian *b*: of or relating to a very large family (Compositae) of dicotyledonous herbs, shrubs, and trees often considered to be the most highly evolved plants and characterized by florets arranged in dense heads that resemble single flowers *c*: factorable into two or more prime factors other than 1 and itself (8 is a positive ~ integer) 2: combining the typical or essential characteristics of individuals making up a group (the ~ man called the Poet—Richard Poirier) 3: of a statistical hypothesis: specifying a range of values for one or more statistical parameters — *compare* SIMPLE 10 — *com-pos-itely* *adv*

com-posite *n* (15c) 1: something composite: COMPOUND 2: a composite plant 3: COMPOSITE FUNCTION

com-posite *vb* -it-ed; -it-ing (1923): to make composite or into something composite (composed four soil samples)

composite function *n* (1965): a function whose values are found from two given functions by applying one function to an independent variable and then applying the second function to the result and whose domain consists of those values of the independent variable for which the result yielded by the first function lies in the domain of the second

com-po-si-tion \ˈkām-pō-zī-shən\ *n* [ME *composicion*, fr. MF *composition*, fr. L *compositio*, *composita*, fr. *compositus*] (14c) 1 *a*: the act or process of composing; *specif*: arrangement into proper proportion or relation and *esp* into artistic form *b* (1): the arrangement of type for printing (hand ~) (2): the production of type or typographic characters (as in photocomposition) arranged for printing 2 *a*: the manner in which something is composed *b*: general makeup (the changing ethnic ~ of the city — Leonard Buder) *c*: the qualitative and quantitative makeup of a chemical compound 3: mutual settlement or agreement 4: a product of mixing or combining various elements or ingredients 5: an intellectual creation: as *a*: a piece of writing; *esp*: a school exercise in the form of a brief essay *b*: a written piece of music *esp* of considerable size and complexity 6: the quality or state of being compound 7: the operation of forming a composite function; also: COMPOSITE FUNCTION — *com-po-si-tion-al* \ˈzī-shən-l, -ən-\ *adj* — *com-po-si-tion-al-ly* \-lē\ *adv*

com-po-si-tor \ˈkām-pōz-ət-ər\ *n* (1533): one who sets type

com-pos men-tis \ˈkām-pōz-mənt-əs\ *adj* [L, lit., having mastery of one's mind] (1616): of sound mind, memory, and understanding

com-post \ˈkām-pōst, ɛsp *Brit*, -ˈpāst\ *n* [MF, fr. ML *compositum*, fr. L, neut. of *compositus*, *compositus*, pp. of *componere*] (1587) 1: a mixture that consists largely of decayed organic matter and is used for fertilizing and conditioning land 2: MIXTURE, COMPOUND

com-posit *vi* (ca. 1778): to convert (as plant debris) to compost

com-po-sure \ˈkām-pō-zhər\ *n* (1647): a calmness or repose *esp* of mind, bearing, or appearance: SELF-POSSESSION

com-pote \ˈkām-pōt\ *n* [F, fr. OF *composte*, fr. L *composita*, fem. of *compositus*, pp. of *componere*] (1693) 1: a dessert of fruit cooked in syrup 2: a glass, porcelain, or metal usu. with a base and stem from which pates, fruits, nuts, or sweets are served

com-pound \ˈkām-paund, kām-, kām-\ *vb* [ME *compounen*, *compondre*, fr. L *componere*, fr. *com-* + *ponere* to put — more at TION] (14c) 1: to put together (parts) so as to form a whole

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com-pra-dor \ˈkām-prə-dō(ə)r\ *n* [MF *comprador*, fr. L *comprador*, lit., buyer] (1840) 1: a Chinese agent engaged by a foreign establishment in China to have charge of its Chinese employees and to act as an intermediary in business affairs 2: INTERMEDIARY

com-pre-hend \ˈkām-pri-hend\ *vi* [ME *comprehenden*, fr. L *comprehendere*, fr. *com-* + *prehendere* to grasp — more at PREHENSILE] (14c) 1: to grasp the nature, significance, or meaning of 2: to include

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com-press \ˈkām-pres\ *vb* [ME *compre*, fr. L *comprimere*, fr. *com-* + *primere* to press — more at PRESS] (14c) 1: to press or squeeze together 2: to reduce in size or volume as if by squeezing

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